

UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA  
RENO, NEVADA

KELLE HERZOG,	)	3:09-CV-567-ECR-VPC
	)	
Plaintiff,	)	MINUTES OF THE COURT
	)	
vs.	)	DATE: August 26, 2010
	)	
BANNER CHURCHILL COMMUNITY HOSPITAL	)	
and DOES I-X, inclusive,	)	
	)	
Defendants.	)	
	)	
	)	
	)	

PRESENT: EDWARD C. REED, JR. U. S. DISTRICT JUDGE

Deputy Clerk: COLLEEN LARSEN Reporter: NONE APPEARING

Counsel for Plaintiff(s) NONE APPEARING

Counsel for Defendant(s) NONE APPEARING

MINUTE ORDER IN CHAMBERS

Now pending is Defendant's motion (#32) to dismiss and Plaintiff's motion (#37) to amend complaint.

Defendant urges us to deny Plaintiff leave to amend on the grounds of futility. We do not agree with Defendant that leave to amend would be futile. Plaintiff's proposed complaint not only corrects a statutory citation but also contains allegations that were not set forth in her initial complaint (#1), which was dismissed by our Order (#28). These allegations suggest Plaintiff may be able to proceed under a coercion theory of constructive discharge. See Knappenberger v. City of Phoenix, 566 F.3d 936 (9th Cir. 2009) (section 1983 case). We will therefore allow Plaintiff leave to file her proposed complaint.

**IT IS, THEREFORE, HEREBY ORDERED** that Defendants' motion to dismiss (#32) is **DENIED** as moot.

**IT IS FURTHER ORDERED** that Plaintiff's motion for leave to amend complaint (#37) is **GRANTED**.

**IT IS FURTHER ORDERED** that Plaintiff shall have fourteen (14) days within which to file the amended complaint.

LANCE S. WILSON, CLERK

By           /s/            
Deputy Clerk